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MAILED
AUG 27 2010
OFFICE OF PETITIONS

In re Application of Elliott et al.	:	
Application No. 09/879,983	:	Decision on Petition
Filing Date: June 14, 2001	:	
Attorney Docket No. VON96046C1	:	

This is a decision on the petition under 37 CFR 1.181 filed March 12, 2010, requesting the Office withdraw the holding of abandonment.

The petition is **granted**.

Background

The Office issued a final Office action on January 6, 2009.

A reply to the Office action was filed March 6, 2009.

An advisory action was issued April 13, 2009.

A Notice of Appeal was filed May 5, 2009.

An Appeal Brief was filed July 2, 2009.

The Office issued a Notice of Abandonment on January 13, 2010. The notice states the application is abandoned because the Office did not receive a reply to the letter mailed April 13, 2009.

Discussion

The Office has charged \$130 to Deposit Account No. 50-1070 pursuant to the general authorization to charge fees in the Notice of Appeal filed May 5, 2009. As a result, the Notice of Appeal was a timely reply to the final Office action.

The Appeal Brief was filed within two months of the filing date of the Notice of Appeal. Therefore, the Appeal Brief was timely.

In view of the prior discussion, the application is not abandoned and the Notice of Abandonment and the holding of abandonment are withdrawn.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person who signed the instant petition, all future correspondence will be directed solely to the address currently of record until such time as appropriate instructions are received to the contrary.

MPEP 1205.03 currently states,

Effective March 30, 2010, the Board of Patent Appeals and Interferences (BPAI) will have the sole responsibility for determining whether appeal briefs filed in patent applications comply with 37 CFR 41.37, and will complete the determination before the appeal brief is forwarded to the examiner for consideration.

In view of MPEP 1205.03, the Board of Patent Appeals and Interferences will be informed of the instant decision and will review the July 2, 2009 Appeal Brief in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.



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